IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

TUESDAY, THE 20TH NOVEMBER 2007 / 29TH KARTHIKA 1929

LA.App..No. 989 of 2001(B)

LAR.85/1998 of PRL.SUB COURT,KOTTAYAM
.....

APPELLANT: CLAIMANT

RAMACHANDRAN NAIR, S/O. DAMODARAN NAIR,
HINDU, AGED 64 YEARS, RAMAKRISHNA SADANAM
(NOW RESIDING AT CHANDRALAYAM), MARANGOLI P.O.,
VIA. NEEZHOOR, VAIKOM TALUK, KOTTAYAM DISTRICT.

BY ADV. SRI.R.RAYA SHENOY
SRI.R.PRASANTH KUMAR

RESPONDENT: RESPONDENT

STATE OF KERALA, REP. BY THE DISTRICT COLLECTOR,
KOTTAYAM.

BY GOVERNMENT PLEADER SMT. K.R.DEEPA

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 20/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A.No.989 of 2001-B

Dated: November 20, 2007

JUDGMENT

Harun-Ul-Rashid, J.

This appeal is filed by the claimant against the judgment and decree dated 22.6.2001 in LAR No.85/1998 on the file of the Principal Sub Judge, Kottayam. An extent of 11 ares of land in Sy.No.397/6-4-2 of Njeezhoor village in Vaikom Taluk was acquired for the formation of Mulakkulam Branch Canal. The notification under sec.4(1) of the Land Acquisition Act was published on 18.12.1995. The land acquisition officer fixed the land value at the rate of Rs.13196/- per are. The land acquired in this case is included in category No.VI viz. reclaimed wet land without road access. The land acquisition officer fixed the land value for category No.I at Rs.17595/- per are and for category No.VI at Rs.13196/- per are. In this case the appellant/claimant was examined as AW.1 and he had deposed before the court that the compensation awarded by the land acquisition officer is not fair and reasonable. He had also taken out a commission and the report was marked as Ext.C1. The appellant/claimant also produced Exs.A1 and A2 which are copies of the judgment in LAR Nos.62/1998 and 64/1998 respectively. The court below, after discussing the importance of the acquired land under the lands covered by Exts.A1 and A2 held that since the lands covered by Exts.A1 and A2 also are acquired for the very same purpose under the very same notification and,

for the reason that both these lands are having the same potentialities, the same yardstick can be adopted for fixation of the land value. Accordingly, as in the case of Exts.A1 and A2, the court below re-fixed the land value at 60% above the land value fixed by the land acquisition officer. An amount of Rs.7500/- was also additionally granted towards severance compensation.

2. Learned counsel for the appellant/claimant pointed out that the acquired land should have been included in the category of Exts.A1 and A2 lands since the acquired land is also facing a panchayat road. He had taken us to the relevant portion of the commissioner's report which states that the acquired land is also facing a panchayat road. In view of the fact that both the acquired land and Exts.A1 and A2 lands are coming under the same category, a separate categorisation adopted by the land acquisition officer was not proper, the acquired land ought to have been included in the same category as that of Exts.A1 and A2. In the circumstances we are of the view that the claimant is entitled to the same land value awarded to the respective claimants in LAR Nos.62/1998 and 64/1998 on the file of the Additional Sub Court, Kottayam (Exts.A1 and A2). The compensation fixed by the land acquisition officer in Exts.A1 and A2 cases was Rs.16715/- per are which was enhanced by the reference court and re-fixed the land value at 60% above the land value fixed by the land acquisition officer. Accordingly, the claimant is granted additional

land value at the rate of Rs.10029/- per are.

In the result, the judgment and decree under appeal is modified. The appellant/claimant is entitled to land value at the rate of Rs.26744/- per are less the amount paid. The claimant is also entitled to all eligible statutory benefits including interest on solatium on the enhanced amount.

KURIAN JOSEPH
JUDGE

HARUN-UL-RASHID
JUDGE.

mt/-